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USPTO GPAU 2141

FROM: Jeffrey G. Toler
Reg. No.: 38,342

RE U.S. App. No.: 10/700,337, filed November 3, 2003

Applicant(s): Kenneth Roger Jones, et al.

Atty Dkt No.: 1033-MS1006

Title: SYSTEM AND METHOD TO IDENTIFY CUSTOMER PREMISE
EQUIPMENT DEVICES

NO. OF PAGES (including Cover Sheet): 9

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- ☒ Transmittal Form (1 pg);
- ☒ Notice of Appeal (1 pg);
- ☒ Pre-Appeal Brief Request for Review (1 pg); and
- ☒ Remarks in Support of the Pre-Appeal Brief Request for Review (5 pgs).

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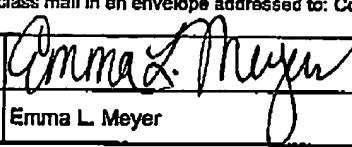
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TRANSMITTAL FORM <small>(to be used for all correspondence after initial filing)</small>	Application Number	10/700,337	
	Filing Date	11/03/2003	
	First Named Inventor	Kenneth Roger JONES et al.	
	Art Unit	2141	
	Examiner Name	NGUYEN, Quang N.	
Total Number of Pages in This Submission	6	Attorney Docket Number	1033-MS1006

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	TOLER, LARSON & ABEL, LLP		
Signature			
Printed name	Jeffrey G. Toler		
Date	11-21-2005	Reg. No.	38,342

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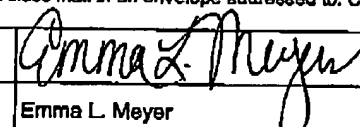
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/700,337	
	Filing Date	11/03/2003	
	First Named Inventor	Kenneth Roger JONES et al.	
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Remarks CUSTOMER NO.: 34456		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	TOLER, LARSON & ABEL, LLP		
Signature			
Printed name	Jeffrey G. Toler		
Date	11-21-2005	Reg. No.	38,342

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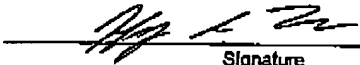
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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 1033-MS1006	
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		First Named Inventor Kenneth Roger Jones	
		Art Unit 2141	Examiner Nguyen
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal.			
The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
I am the			
<input type="checkbox"/>	applicant/inventor.	 Signature Jeffrey G. Toler Typed or printed name (512) 327-5516 Telephone number 11-21-2005 Date	
<input type="checkbox"/>	assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/98)		
<input type="checkbox"/>	attorney or agent of record. Registration number _____		
<input checked="" type="checkbox"/>	attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 38,342		
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			
<input checked="" type="checkbox"/> Total of <u>1</u> forms are submitted.			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Appellants: Kenneth Roger JONES et al.

Title: SYSTEM AND METHOD TO IDENTIFY CUSTOMER PREMISE
EQUIPMENT DEVICES

NOV 21 2005

App. No.: 10/700,337

Filed: 11/03/2003

Examiner: NGUYEN, Quang N.

Group Art Unit: 2141

Customer No.: 34456

Confirmation No.: 5176

Atty. Dkt. No.: 1033-MS1006

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450**REMARKS IN SUPPORT OF
THE PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Dear Sir:

In response to the Final Office Action mailed October 4, 2005 (hereinafter, "the Final Office Action") and pursuant to the Notice of Appeal and Pre-Appeal Brief Request submitted herewith, the Applicants request review of the following issues:

The Combination of Owens and Iwakata Fails to Disclose At Least One Element of Claims 1-9 and 18-21.

Independent claim 1 recites a broadband access server that receives a data packet during a discovery phase that includes a device identifier comprising a plurality of data fields corresponding to a digital subscriber line (DSL) customer premises equipment (CPE) device. Similarly, Independent claim 18 recites a broadband access server adapted to receive a data packet during a discovery phase that includes an identifier comprising a device identifier and a device hardware identifier corresponding to the DSL CPE device.

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The Final Office Action acknowledges that U.S. Patent Publication No. 2003/0053443 ("Owens") does not teach that the device identifier includes a plurality of fields. *See Final Office Action*, p. 3. The Final Office Action asserts that U.S. Patent Publication No. 2002/0095299 ("Iwakata") teaches a customer information control system in which the electronic equipment automatically reads out the product information, including a product model number, a manufacturer's serial number, and the like. *See Final Office Action*, p. 3. However, Applicants note that Iwakata assumes that a network connection is established when the data is sent. *See Iwakata*, Abstract.

The asserted motivation to combine Owens and Iwakata lacks support in the references. In particular, Iwakata is directed to a product registration system where device information and customer information are sent to a host system for registration, and the product device information is used, for example, to check for existing data records in the system in order to duplicate data entries. *See Iwakata*, paragraph 0080. While Owens uses only a single data point (a MAC address) for provisioning of services (*See Owens*, paragraph 0083 and 0084), Iwakata sends multiple data fields after such services have been established (*See Iwakata*, paragraphs 0073-0075). Neither Owens nor Iwakata provide a suggestion or motivation to use a plurality of fields during a discovery phase. Thus, there is no motivation provided in the references to make the asserted combination. Therefore, the asserted combination of Owens and Iwakata is improper and should be withdrawn.

Additionally, Applicants note that there is no reasonable expectation of success, in part, because the system of Iwakata is technically inconsistent with the system of Owens. *See Reply to Non-Final Office Action*, filed September 20, 2005, ("NFOA Reply") p. 8. In particular, Owens is directed to provisioning broadband services (*see Owens*, Abstract and paragraph 0002, for example). Iwakata is unrelated to provisioning of broadband services. In contrast to claim 1 and in contrast to Owens, Iwakata checks for the existence of a connection prior to requesting personal information input and prior to reading product identification information (*see*, for example, *Iwakata*, step 301 in FIG. 3 as compared to step 401 in FIG. 5). Thus, Iwakata first establishes a connection and, after the connection is established, then downloads or uploads personal information (steps 303 and sequence) and/or product information (step 401 in FIG. 5). Thus, the download or upload disclosed by Iwakata does not occur during a discovery phase.

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Thus, the two references are technically inconsistent, and therefore the asserted combination is improper.

Even if combined, the asserted combination of Iwakata and Owens fails to disclose or suggest a broadband access server that receives a data packet during a discovery phase that includes a device identifier comprising a plurality of data fields corresponding to the DSL CPE device, as recited in independent claim 1. The asserted combination of Iwakata and Owens also fails to disclose or suggest a broadband access server that is adapted to receive a data packet during a discovery phase that includes an identifier comprising a device identifier and a device hardware identifier corresponding to the DSL CPE device, as recited in claim 18.

Claims 2-9 depend from independent claim 1, and claims 19-21 depend from independent claim 18. The asserted combination of Iwakata and Owens fails to disclose or suggest at least one element of each of claims 1 and 18; therefore, the combination of Iwakata and Owens fails to disclose or suggest at least one element of each of the dependent claims 2-9 and 19-21, at least by virtue of their dependency from claims 1 and 18.

The Combination of Owens and Iwakata Fails to Disclose At Least One Element of Claims 10-17.

Neither Owens nor Iwakata disclose or suggest a customer service terminal for receiving and displaying the device identifier, as recited in claim 10.

Owens fails to disclose or suggest a customer service terminal. The Final Office Action asserts that Iwakata discloses a customer information input/display unit 13 that receives and displays the customer management information. *See Final Office Action*, pp. 5-6. However, Applicants note that the display unit 13 is part of the data processing unit 100 of the client machine 10. Therefore, the display unit 13 of Iwakata is a customer user terminal, as opposed to a customer service terminal as recited in claim 10. Moreover, the display unit 13 of Iwakata displays "*check results* of the stored information and the received information." *See Iwakata*, paragraph 0071. Iwakata states that the information input/display unit 13 receives the personal information (PI) necessary for a customer information control by a host machine 20 and displays the results of data check from the host machine 20 "including double registration error as for the

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same PC.” See *Iwakata*, paragraph 0074. *Iwakata* also discloses sending and displaying a user registration number. See *Iwakata*, Figure 10, reference numerals 905 and 906, and paragraph 0108. Thus, the check results feature of *Iwakata* is a registration number or registration error, and not the device identifier of claim 10. Therefore, the asserted combination of Owens and *Iwakata* fails to disclose or suggest a customer service terminal for receiving the device identifier and displaying the device identifier to a user of the customer service terminal, as recited in claim 10.

Additionally, as previously discussed, Owens and *Iwakata* are technically inconsistent. Owens is directed to provisioning broadband services (See *Owens*, Abstract and paragraph 0002, for example), while *Iwakata* downloads personal information only after the connection is established. See *Iwakata*, 301 in Figure 3 as compared to 401 in Figure 4, for example). Thus, the download of *Iwakata* occurs only after the provisioning of broadband services of Owens. There is no motivation or suggestion in either reference to make the asserted combination, and the two references are technically inconsistent. Therefore, the asserted combination of Owens and *Iwakata* is improper and should be withdrawn.

Claims 11-17 depend from independent claim 10. The asserted combination of Owens and *Iwakata* fails to disclose or suggest at least one element of independent claim 10. Therefore, the combination of Owens and *Iwakata* fails to disclose or suggest at least one element of each of the dependent claims 11-17, at least by virtue of their dependency from allowable independent claim 10.

Conclusion


As discussed above, the asserted combination of Owens and *Iwakata* is improper and should be withdrawn, since the provisioning of Owens is inconsistent with the download of *Iwakata*. Moreover, the Final Office Action fails to establish that the proposed combination of Owens and *Iwakata* discloses or suggests each and every element of independent claims 1, 10 and 18. The Final Office Action therefore fails to establish that the proposed combination of Owens and *Iwakata* discloses or suggests each and every element of claims 2-9, 11-17, and 19-21, at least by virtue of their dependency from one of claims 1, 10 or 18.

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Accordingly, the rejections of the pending claims are improper, and the Applicants therefore respectfully request the withdrawal of these rejections.

Respectfully submitted,

11-11-2005
Date


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